



Planning,
Industry &
Environment

IRF21/2174

Gateway determination report – PP-2021-3439

Rezone Lot 456 DP 755557, Endeavour Drive, Bellingen from RU1 to E3 and E4 and permit Community Title subdivision on the land zoned E4

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Table 1 - Reports and plans supporting the proposal

Relevant reports and plans
Attachment A - Bellingen Shire Council Planning Proposal – Version 2 (11/05/2021) + Appendices
Attachment B – Gateway Determination
Attachment C – Letter to Council
North Coast Regional Plan 2036
Bellingen Shire Local Housing Strategy 2020-2040

1 Planning proposal

1.1 Overview

Table 2 - Planning proposal details

LGA	Bellingen
PPA	Bellingen Shire Council
NAME	Rezone Lot 456, DP 755557, Endeavour Drive, Bellingen from RU1 to E3 and E4 and permit Community Title subdivision on the land zoned E4 (80 homes) (0 jobs)
NUMBER	PP-2021-3439
LEP TO BE AMENDED	Bellingen LEP 2010
ADDRESS	Endeavour Drive, Bellingen
DESCRIPTION	Lot 456, DP 755557
RECEIVED	12/05/2021
FILE NO.	IRF21/ 2174
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Rezone the northern part of Lot 456, DP755557 (approx. 17.13ha) from RU1 (Primary Production) to E4 (Environmental Living) for the purpose of a Community Title residential subdivision known as Heartwood Community (approximately 80 lots). The residue of the lot currently zoned E3 and RU1 (57.9ha) will be zoned wholly as E3 Environmental Management and is known as Heartwood Forest.
- Amend Schedule 1 of the LEP to:
 - enable Community Title residential development on that part of the lot zoned E4; and
 - ensure that the part of the lot zoned E3 is managed in perpetuity for conservation purposes via the application of a Biodiversity Stewardship Agreement.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Bellingen LEP 2010 LEP as follows:

1. Amend map sheet LZN_006B to rezone the northern part of Lot 456, DP 755557 (17.13ha) from RU1 (Primary Production) to E4 (Environmental Living), and zone the rest of the land as E3 (Environmental Management).
2. Amend Schedule 1 of BLEP 2010 to:
 - a. permit a Biodiversity Stewardship Site for the residue part of the lot zoned E3 (57.9).
 - b. the subdivision of the land that is zoned E4 must be via Community Title Subdivision, with no "neighbourhood lot" created as part of the subdivision to be less than 600m² in area;
 - c. the erection of a dwelling is permitted on any "neighbourhood lot" created as part of the Community Title subdivision of the land; and
 - d. the land that is zoned E3 must be retained as "association property", managed in perpetuity for conservation purposes and a Biodiversity Stewardship Agreement shall be registered over that part of the land prior to the issue of any Subdivision Certificate for the creation of neighbourhood lots approved in accordance with this schedule.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject lot is approximately 75ha in area and located at the southern edge of the Bellingen residential area (Figures 1 & 2). It is currently zoned RU1 Primary production and E3 Environmental Management (Figure 3). The land adjoins land zoned R1 General Residential to the north west, R5 Large Lot Residential to the north and north east, RU1 Primary Production to the south and south east and E3 Environmental Management to the south west. The northern area of the land is referred to as the Heartwood Community residential area (17.13 ha) and the southern area is referred to as the Heartwood Forest conservation area (57.9 ha).

The land is densely vegetated, particularly in the southern area (Figure 4). The northern part of the site off Endeavour Drive is partially cleared with all of the land having been logged several times in the past. Parts of the land are mapped as preferred Koala habitat (Secondary A) under Bellingen Shire Council's adopted comprehensive Koala Management Strategy. The land is mapped as bush fire prone land. The northern part of the land slopes between 5% and 30% and comprises a series of ridges and gullies with more open cleared land to the north east.

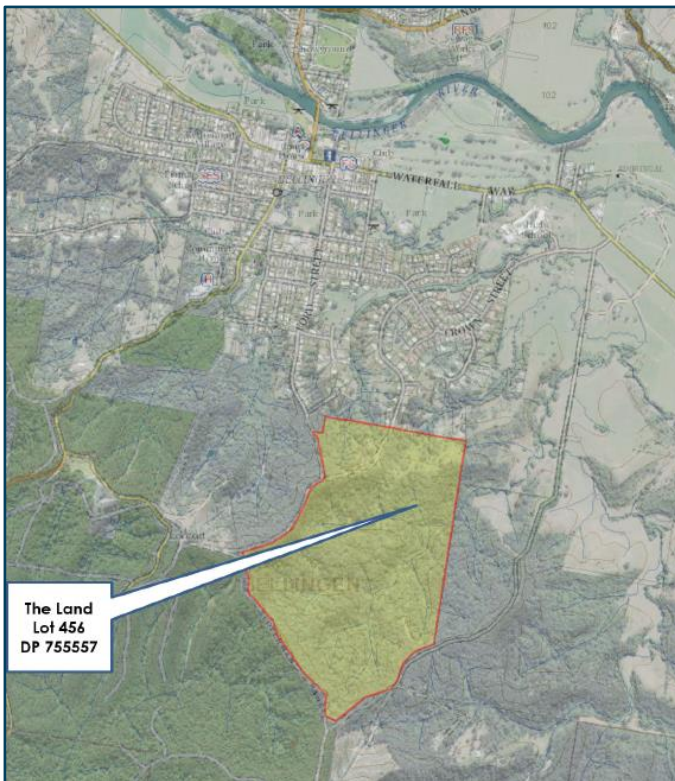


Figure 1 Subject site (source: Planning Proposal)

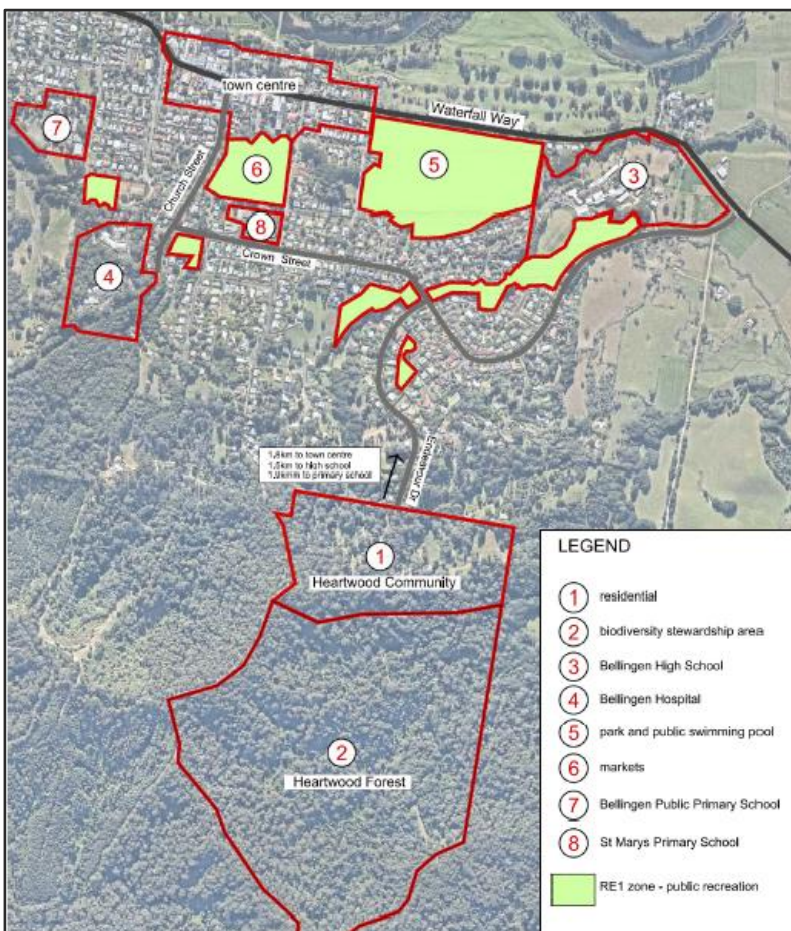


Figure 2 Site context (source: Planning Proposal)

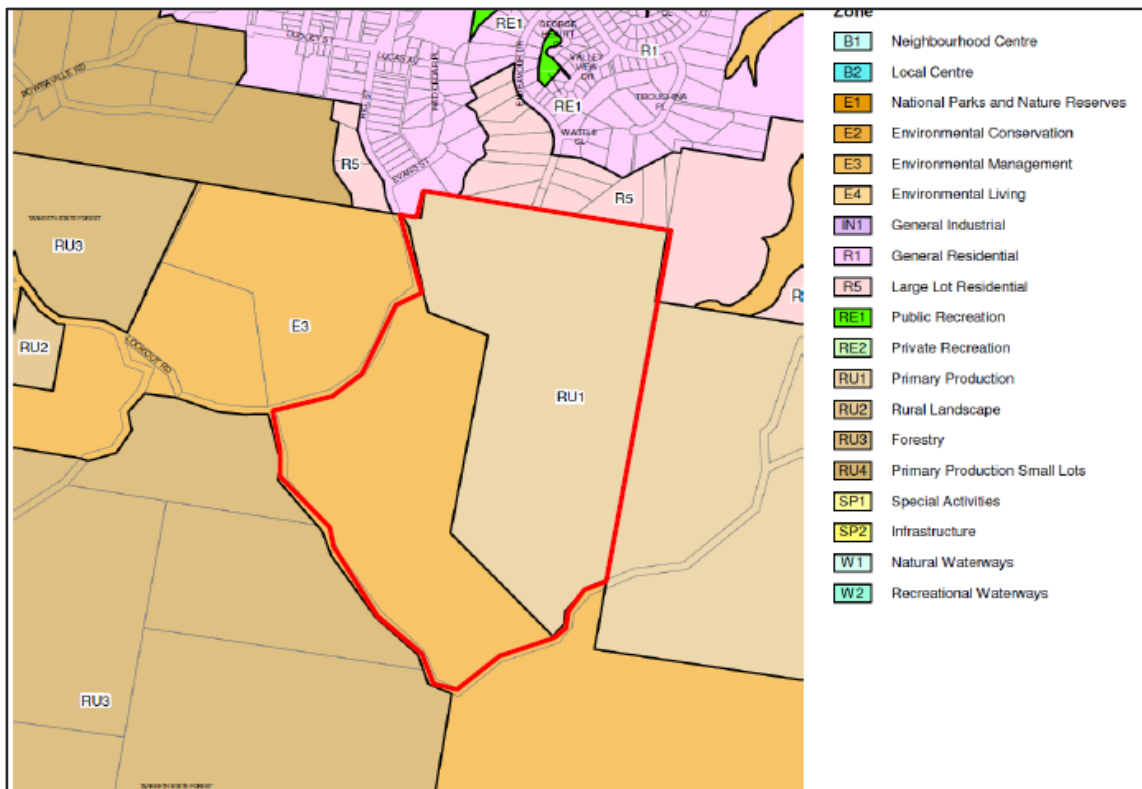


Figure 3 - Current Zoning (source: Planning Proposal)



Figure 4 - Aerial view of subject lot showing dense vegetation (source: Six Maps)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Bellinghen LEP 2010 maps, which are suitable for community consultation.

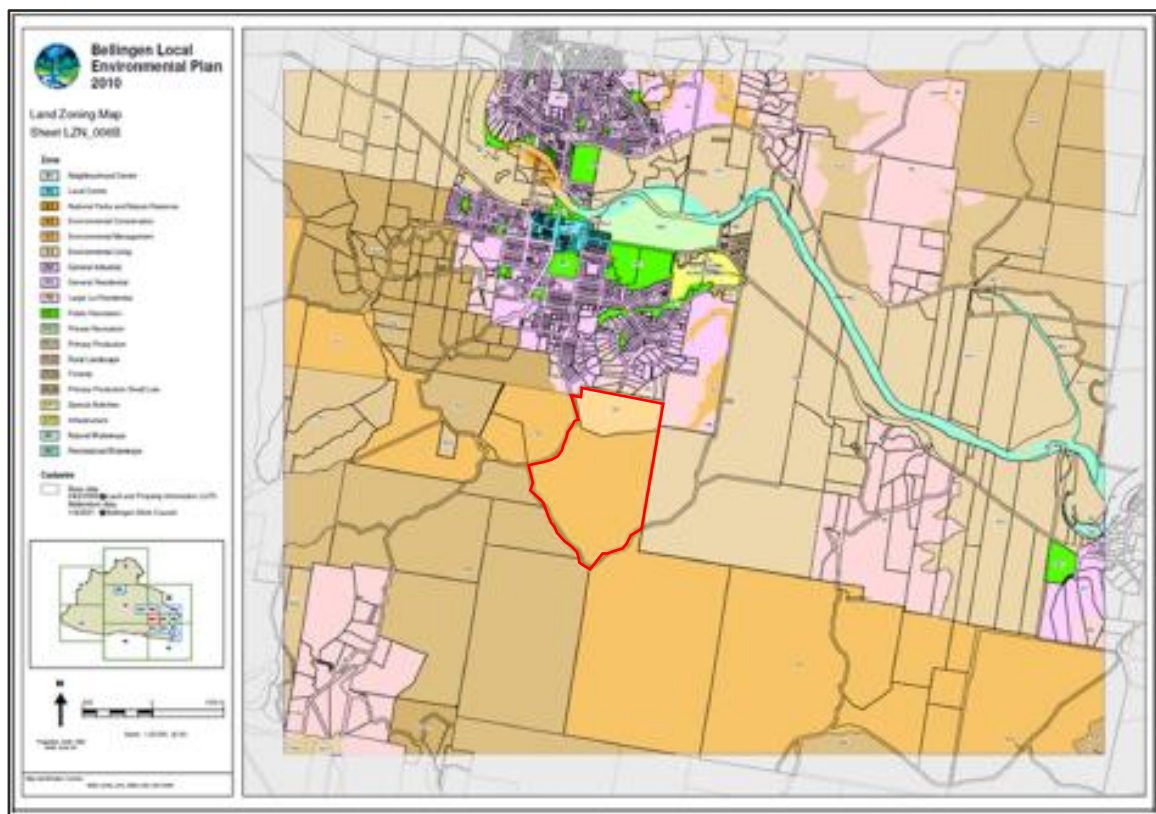


Figure 5 - Proposed zoning map (source: Planning Proposal)

2 Need for the planning proposal

The planning proposal has been prepared to support a proponent funded application for an amendment to Bellinghen LEP 2010 to facilitate development for the purpose of Community Title residential development (on that part of the site to be rezoned E4). The concept subdivision plan for the site shows the potential for 80 lots. The anticipated MLS of these lots will be not less than 600m² (Figure 6).

The planning proposal also responds to and is consistent with Section 4.2 of the Bellinghen Shire Local Housing Strategy 2020-2040 which was approved by the Department on 15 April 2020. The strategy identified the site as a greenfield housing area for 80 additional lots and as a DPIE endorsed Candidate Area for investigation for residential development, investigation and progression of a planning proposal consistent with the strategy (Figure 7).

Areas previously identified for potential residential development in Council's Growth Management Strategy 2007 for Bellinghen have not yet yielded any residential housing, despite being rezoned for purpose, and Council has needed to look to other sites to help deliver additional housing supply in accordance with future needs, as detailed in the North Coast Regional Plan (NCRP).

The planning proposal is considered to be the best means of achieving the objectives and intended outcomes.

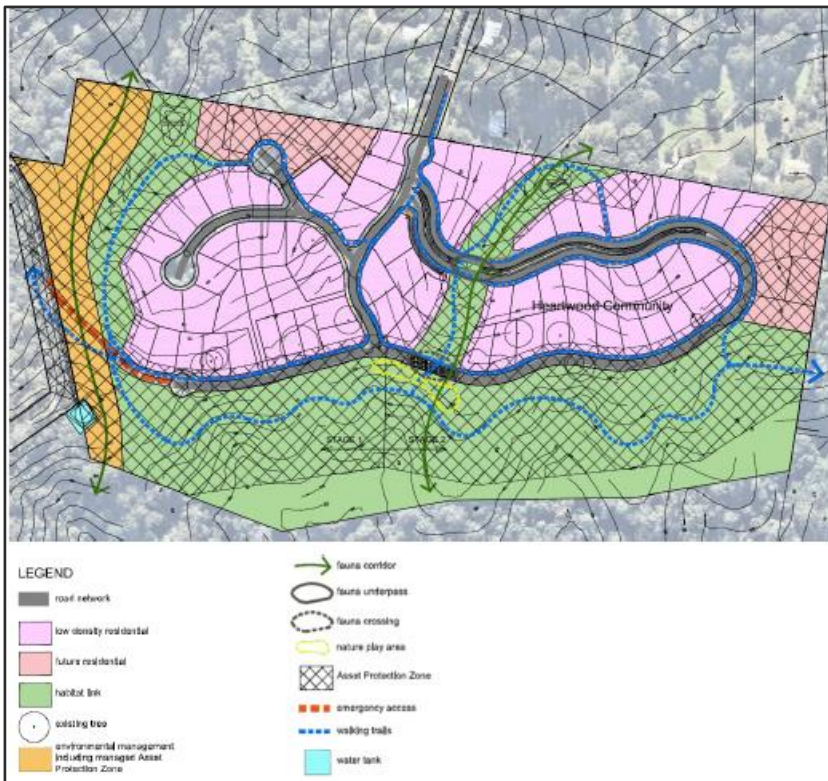


Figure 6 - Concept subdivision of E4 portion of subject land (source: Planning Proposal)



Figure 7 - Greenfield Housing to 2040 (source: Bellingen Local Housing Strategy)

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan.

Table 3 - Regional Plan assessment

Regional Plan Objectives	Justification
Priorities	<p>As a Regional housing priority for Bellingen, the NCRP identified the need to:</p> <p><i>Enhance the variety of housing options to cater for an ageing population in Bellingen and Dorrigo and support the distinctive character of Bellingen Shire's towns and villages.</i></p> <p>It is considered that the planning proposal responds directly to and will assist in achieving this Regional Housing Priority.</p>
Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments	<p>The subject land is mapped as containing Potential High Environmental Values (HEV) under the NCRP (Figure 8). The proposed residential development is expected to impact 12.6 ha of native vegetation with approximately 57.9ha of the site to be protected under an E3 zoning and a Biodiversity Stewardship Agreement (BSA). This is discussed in more detail in Section 4.1 of this report.</p> <p>It is considered that the planning proposal, whilst being inconsistent with this Direction, will at the same time help to preserve a large tract of vegetation mapped as containing HEV through the application of the E3 zoning and the BSA. The current zoning of approximately 50% of the site is RU1 Primary Production which by its very nature does not afford such protection.</p>
Direction 11: Protect and enhance productive agricultural lands	<p>The planning proposal is considered to be consistent with this Direction as the subject land, whilst being developed for residential purposes, is not mapped as containing important farmland.</p>
Direction 22: Deliver greater housing supply	<p>The NCRP anticipates that Bellingen should aim to deliver an additional 200 homes to meet population growth over the next 20 years. The planning proposal aims to provide for an additional 80 Community Title residential lots in an area identified in Council's Local Housing Strategy as suitable for low density residential housing. The planning proposal is considered consistent with this Direction.</p>
Direction 23: Increase housing diversity and choice	<p>The provision of an additional 80 new lots will assist in delivering housing diversity and choice and therefore meet the needs of a changing population and support the reduction of household size. The planning proposal is considered consistent with this Direction.</p>
Direction 25: Deliver more opportunities for affordable housing	<p>The proposal will help to deliver more opportunities for affordable housing as well as a greater variety of housing types. The planning proposal is considered consistent with this Direction.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 - Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	The planning proposal is consistent with the themes and planning priorities contained within the LSPS, specifically Action 6.1 – Implement the Bellingen Shire Local Housing Strategy (LHS).
Bellingen Shire Local Housing Strategy 2020-2040 (LHS)	<p>The Bellingen Shire LHS was conditionally approved by the Department on 15 April 2020. The subject land is identified as a greenfield housing area for 80 additional lots (Figure 7 – Area BG3) within the <i>Bellingen LHS</i>, and as a DPIE-endorsed Candidate Area for investigation for residential development, investigation and progression of a Planning Proposal that is consistent with that Strategy.</p> <p>Conditional approval of the Bellingen LHS required the following:</p> <p><i>‘detailed assessment of site-specific development constraints will be required for any areas proposed for rezoning or changes in development standards at the planning proposal stage to confirm the overall suitability of the land for development as well as consistency with relevant SEPPs and section 9.1 Directions particularly in relation to issues such environmental value, agricultural significance, land use conflict, hazards, cultural heritage and infrastructure, including the proposed rezoning at Endeavour Drive Bellingen.’</i></p> <p>In support of the planning proposal and compliant with the above condition of endorsement, the following studies to determine and confirm the suitability of the site have been undertaken:</p> <ul style="list-style-type: none"> • Bushfire Report; • Preliminary Contamination Assessment; • Ecological Review (including BDAR and Koala Habitat Assessment); • Traffic and Infrastructure Assessment; • Aboriginal Cultural Heritage Assessment; and • Engineering Assessment. <p>These matters are discussed in more detail in Section 4.1 of this report.</p> <p>The Community Title residential subdivision (Heartwood) that will follow the rezoning, aligns with the housing vision of the LHS by:</p> <ul style="list-style-type: none"> • Providing housing choice; • Locating new housing adjacent to the town area and within walking distance of schools and urban services; and • High quality sustainable housing will be supported and incentivised by the proponents for the Heartwood Community subdivision. <p>It is considered that the planning proposal has adequately addressed the conditions imposed on the endorsement of the LHS and as such is considered to be consistent with the LHS.</p>

Bellingen Shire Community Strategic Vision 2027 (CSP)	The planning proposal is not inconsistent with the Bellingen Shire Community Strategic Vision 2027.
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3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 5 - 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.5 Rural Lands	No – Justifiably inconsistent	<p>This Direction applies as the planning proposal will affect land within a rural zone and is unable to satisfy all the requirements of the Direction.</p> <p>The inconsistency with this Direction is considered to be of minor significance as the portion of the site to be developed has been identified in an endorsed strategy for residential development, with supporting studies confirming its suitability. The residue, of which only half is currently zoned RU1, will be rezoned to E3 to protect the environmental values of the site.</p> <p>The northern part of the site to be developed for residential purposes has been partially cleared and is considered insufficient in area for viable primary production purposes, whilst the slope and vegetative density of the remaining RU1 also precludes viable farming.</p> <p>The site does not contain any farmland of State or Regional significance.</p>
2.1 Environment Protection Zones	No – Justifiably inconsistent	<p>This planning proposal is inconsistent with this Direction as it affects land mapped in the NCRP as containing Potential High Environmental Values.</p> <p>The inconsistency with this Direction is considered to be of minor significance as:</p> <ul style="list-style-type: none"> The planning proposal is accompanied by an Ecological Assessment/BDAR that has applied Biodiversity credits in compensation for both direct and indirect impacts of the proposed development. A Koala Habitat Assessment Report, as required by the Bellingen Shire Comprehensive Koala Plan of Management and Chapter 16 – Koala Habitat Protection of Council's Development Control Plan, has also been undertaken.

		<ul style="list-style-type: none"> The Ecological assessment/BDAR identified that with mitigation measures the level of impact would be low. Clearing of vegetation and associated threatened species habitat will require offsets under the Biodiversity Offset Scheme. Credits will be retired in an area to be conserved in perpetuity under a Biodiversity Stewardship Agreement in an adjoining lot to the south of the development site and further assessment in relation to Koala habitat will be undertaken in accordance with Chapter 16 of the DCP; and Whilst the proposed development will have an impact on the biodiversity values in that part of the site to be rezoned E4, it will, in effect, lead to the protection of the residue of the lot through the application of an E3 Environmental Conservation zoning and Biodiversity Stewardship Agreement. The current RU1 zoning does not afford this level of protection. <p>Consultation with BCD is recommended.</p>
2.3 Heritage conservation	No – Justifiably inconsistent	<p>The planning proposal is inconsistent with this Direction as it does not contain provisions to facilitate the conservation of matters of Aboriginal heritage significance.</p> <p>The inconsistency with the Direction is considered to be of minor significance as the planning proposal is supported by an Aboriginal Cultural Heritage Assessment that found no reason from an Aboriginal Cultural and Heritage perspective that the rezoning cannot proceed subject to recommendations should an artefact be found during construction. The subject site also does not contain any items listed as having local or state heritage significance.</p> <p>Consultation with the relevant Local Aboriginal Land Councils is however recommended.</p>
4.1 Acid Sulfate soils	No – Justifiably inconsistent	<p>The planning proposal is inconsistent with this Direction as it will allow an intensification of land use on acid sulfate soils and it is not supported by an acid sulfate soils study.</p> <p>The inconsistency is considered to be of minor significance as Bellingen LEP 2010 contains suitable provisions to ensure that this matter can be appropriately considered and addressed at development application stage.</p>
4.3 Flood Prone Land	No – Justifiably inconsistent	<p>The proposal is inconsistent with this Direction as it potentially creates, removes or alters a zone or a provision that affects flood prone land.</p> <p>The inconsistency is considered to be of minor significance as Bellingen LEP 2010 contains provisions</p>

		that allow this matter to be adequately addressed at development application stage.
4.4 Planning for Bushfire Protection	No - inconsistent	The planning proposal is potentially inconsistent with this Direction because the land is bush fire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Consultation with the RFS is required following receipt of a Gateway determination and prior to undertaking community consultation. Until this consultation has occurred the inconsistency with the Direction is unresolved.
5.10 Implementation of Regional Plans	No – Justifiably inconsistent	<p>The planning proposal is considered to be inconsistent with this Direction as it enables the residential development of land mapped under the NCRP as containing Potential High Environmental Values.</p> <p>The inconsistency with this Direction is considered to be of minor significance as studies undertaken in relation to the effect of the proposed development on Biodiversity values, show that with mitigation measures, the level of impact would be low. Clearing of vegetation and associated threatened species habitat will require offsets under the Biodiversity Offset Scheme. Credits will be retired in an area to be conserved in perpetuity under a Biodiversity Stewardship Agreement in an adjoining lot to the south of the development site.</p> <p>Consultation with BCD is recommended.</p>
6.3 Site Specific Provisions	No -Justifiably inconsistent	<p>The planning proposal is considered to be inconsistent with this Direction as it will allow a particular development to be carried out (ie: Community Title residential subdivision) and will impose development standards in relation to this development.</p> <p>The inconsistency with this Direction is considered to be of minor significance as the proposed rezoning is in accordance with an endorsed strategy whilst the Community Title status in conjunction with the E4 zoning will ensure that key infrastructure is not owned or maintained by council and that the overriding focus of the development is on the protection of the sites key environmental values.</p>

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 6 - Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Koala Habitat Protection 2020	This SEPP applies as Bellingen LGA is listed in Schedule 1 of the SEPP.	Consistent	<p>Bellingen Shire Council has a Comprehensive Koala Plan of Management (KPoM) mapping core Koala habitat and preferred Koala habitat. Approximately 9ha of the development site (northern portion of the lot) is regarded as Preferred Koala habitat under Council's Koala Plan of Management. It is also acknowledged other areas that are not currently mapped may contain core Koala habitat.</p> <p>A Koala Habitat Assessment Report, as required by the Bellingen Shire Comprehensive Koala Plan of Management and Chapter 16 – Koala Habitat Protection of Council's Development Control Plan, has also been undertaken. Further detail in this regard is provided in Section 4.1 of this report.</p> <p>Future development will require assessment in accordance with the Koala SEPP and Bellingen KPoM.</p> <p>The planning proposal is considered to be consistent with the SEPP.</p>
SEPP 55 Remediation of Land	This SEPP applies as the planning proposal seeks to rezone land for residential purposes	Consistent	<p>The planning proposal is supported by a Preliminary Site Contamination Assessment. This desktop assessment has identified no areas of environmental concern. Further site assessment work is not considered necessary from a site contamination perspective. As such, development of the site is not considered to be constrained by past land use activities that may have resulted in site contamination.</p> <p>The planning proposal is considered to be consistent with Direction 2.6 Remediation of Land and this issue is able to be adequately addressed further if necessary, at the development application stage of the proposal.</p>

4 Site-specific assessment

4.1 Environmental

An assessment of the potential environmental impacts associated with the proposal is detailed below.

1. Biodiversity/Koala Habitat

The planning proposal is supported by a Biodiversity Development Assessment Report (BDAR) and draft Koala Habitat Assessment Report.

The proposed development is expected to impact 12.6 ha of native vegetation of which 5.62 ha is proposed to be removed and 6.98 ha is proposed to be managed as an asset protection zone where ground layer vegetation (grasses and forbs) and approximately 30 percent of canopy vegetation will be retained (Figure 8).

The native vegetation that currently exists on the subject site consists of three Plant Community Types and includes 9.09 ha of mapped primary koala habitat as defined by the Bellingen Shire Council Coastal Area Koala Management Strategy and Plan (Figure 9). The mapping of this site as containing Potential High Environmental Values under the NCRP coincides with the presence of preferred Koala habitat (Figure 10).

Approximately 9.09 ha of preferred koala habitat is expected to be directly impacted as a result of the proposed development. The direct impacts of vegetation removal at the site will result in a loss of habitat and reduced connectivity across the site.

The proposed development has been designed to include two fauna corridors which are located in the western and central areas of the lot. These corridors are included in asset protection zones and will retain 30 percent of existing canopy vegetation with priority to retain species that are known KFTs. A linear strip of vegetation categorised as PKH will also be retained along the southern boundary between the APZ and the adjoining proposed Biodiversity Stewardship Site (BSS).

The impacts of the development will also be minimised through offsetting 58.07 ha of land that adjoins the southern boundary of the site and contains 33.82 ha of Secondary A habitat and 6.25 ha of Secondary B habitat. Bellingen Shire Council's Habitat Compensation Policy requires that where protection of land is to be used as compensation for loss of primary koala habitat, Secondary A habitat must be replaced using a factor of three. This will result in a total offset area of 27.27 ha (from 9.09 ha to be impacted). These offset outcomes align with Council's Habitat Compensation Policy.

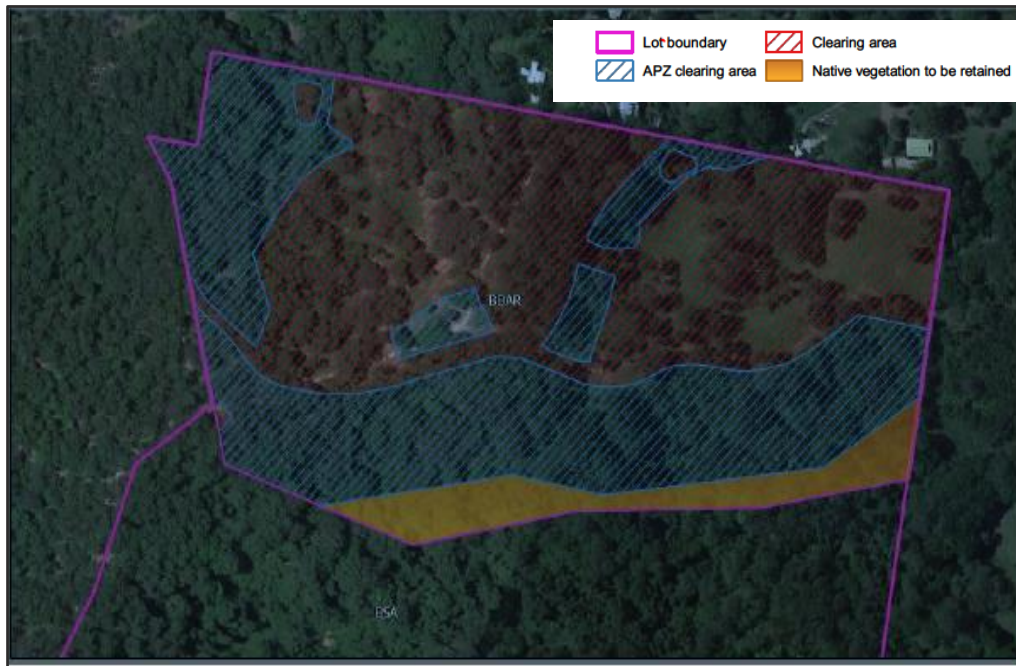


Figure 8 - Native vegetation to be removed and retained on site (source: Biodiversity Development Assessment Report - Ecosure)

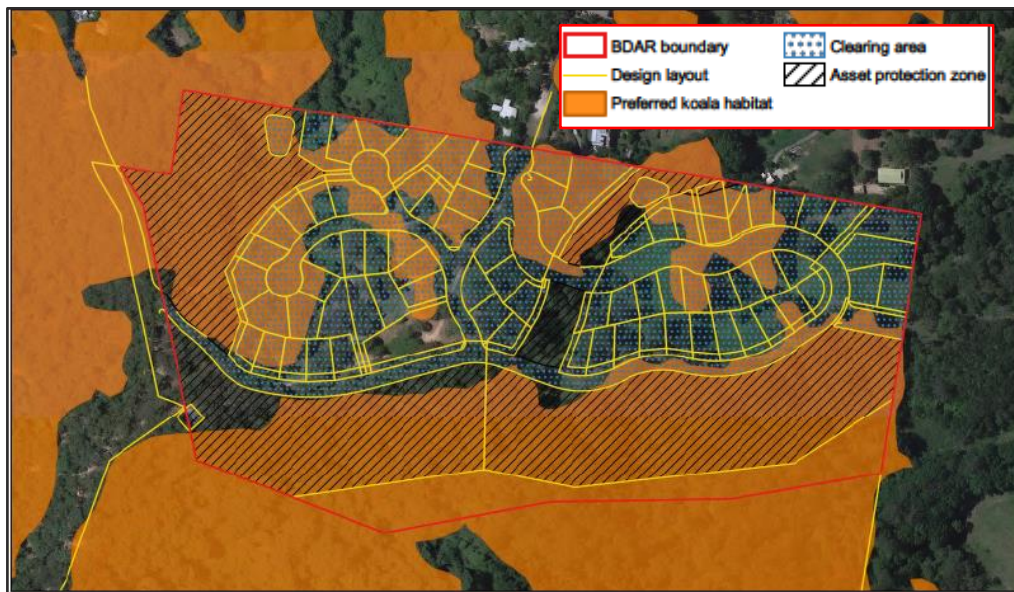


Figure 9 - Development footprint and preferred Koala habitat (source: draft Koala Habitat Assessment Report – Ecosure)

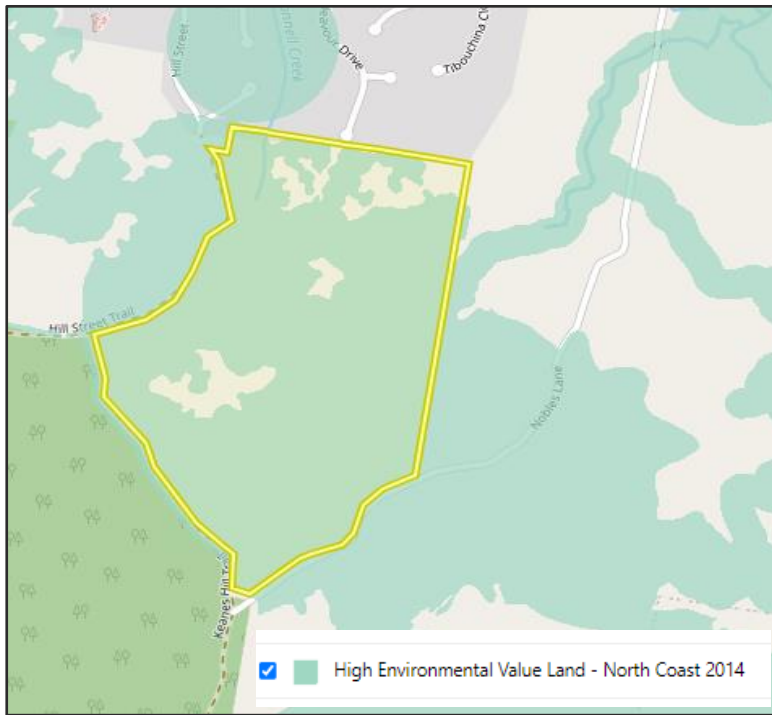


Figure 10 - Potential High Environmental Values (source: NCRP)

Overall, the BDAR identified that with mitigation measures the level of impact of the proposed development would be low. Clearing of vegetation and associated threatened species habitat will require offsets under the Biodiversity Offset Scheme. Credits will be retired in an area to be conserved in perpetuity under a Biodiversity Stewardship Agreement in an adjoining lot to the south of the development site.

The direct impacts associated with clearing of vegetation and associated threatened species habitat (12.6 ha) will require offsetting under the Biodiversity Offsets Scheme (BOS). A total of 279 ecosystem credits and 61 species credits were generated by the Biodiversity Assessment Method (BAM) calculator. A decrease in vegetation integrity scores as a result of the proposed development is due to clearing of native vegetation and will require offsetting. These offsets will be credited against the adjoining Heartwood Forest Biodiversity Stewardship Agreement (BSA) site.

The BDAR provided a summary of recommendations regarding the implementation of the PP and subsequent development of the subject land to monitor and manage any potential environmental impacts:

The development should manage potential impacts associated with habitat loss and water quality through:

- A Vegetation Management Plan that incorporates restoration and planting offsets, and
- Monitoring of connectivity corridors to ensure species movement is not impeded, and
- Ensuring storm water, sediment and erosion plans are effectively implemented.

The biodiversity values of the land are not adequately protected under the present rural zone with the land previously logged for private forestry by past owners. It is anticipated that the outcomes of this Planning Proposal will improve biodiversity protection despite the proposed clearing of the Heartwood Community development area. The registration and implementation of the Heartwood Forest BSA will protect and enhance the biodiversity values of the stewardship site in perpetuity. The BSA will include measures to prevent unlawful access to the stewardship site.

2. Bushfire

The planning proposal is supported by a Bushfire Strategic Study to ensure consideration of potential bush fire impacts and the implementation of appropriate mitigation measures in accordance with Planning for Bushfire Protection 2019.

The Study recommended the following:

- The LEP should prohibit the undesirable developments, listed in Table 6 of the Report, within the bushfire-prone areas (land within 100m of identified bushfire hazard vegetation) of the subject site;
- All of the land on the subject site other than the retained native vegetation should have no restriction placed on it that prohibits APZ maintenance. This will include restrictions such as "tree preservation orders" and the like;
- A *Vegetation Management Plan* should be prepared for the parts of the site where APZs are proposed to be created over land steeper than 20°. The *Vegetation Management Plan* should have regard for both Appendix 4 of *PBP-2019* and the RFS document "Standards for Asset Protection Zones", as well as addressing the issues of soil stability and erosion, and sediment control;
- The *Vegetation Management Plan* should address temporary APZs for Staged development, ongoing management of non-vegetated areas to ensure bushfire hazard vegetation does not regenerate on the site;
- The LEP should provide a mechanism to ensure the Fire & Rescue NSW document "*Fire Safety Guideline - Fire Hydrants for Minor Residential Development*" is included as a policy for future development within the site; and
- A Neighbourhood Management Plan for the Community Title development should address the recommendations 2-5 above.

The planning proposal has adequately considered bush fire risk in relation to the proposed residential development of the subject site and the recommendations detailed above are able to be incorporated into conditions of consent at the development application stage of the proposal.

Consistency with Ministerial Direction 4.4 Planning for Bushfire Protection is unable to be resolved until consultation with the NSW RFS has occurred prior to community consultation. This forms a condition of this report.

3. Contamination

The planning proposal is supported by a Preliminary Site Contamination assessment which indicates the site has been vacant and densely vegetated from at least 1964 until the present day. The desktop assessment identified no areas of environmental concern and as such concluded that further site assessment work is not considered necessary from a site contamination perspective.

4. Traffic

The planning proposal is supported by a Traffic and Transport Impact Assessment. This report has assessed the impact of the proposed development footprint on the operation of the surrounding transport network infrastructure and services. Primary access to the proposed subdivision will be via Endeavour Drive with an emergency access path proposed to Hill Street from the development.

The Assessment Report concluded the following:

- All roads within the proposed Community Title subdivision are able to meet the requirements of PBP 2019, Bellingen Shire Council Development Design Specifications and the Bellingen Shire DCP 2017;

- The proposed Community Title subdivision could generate an additional 600 vehicle trips per day on Endeavour Drive. The resulting daily volumes on Endeavour Drive, including traffic generated from the proposed development would be less than 1,000 v.p.d. well within the bounds of the environmental and amenity capacity of a two-lane 8.0m wide local street;
- The proposed rezoning will be likely to generate approximately 72 additional peak hour trips to the road network;
- No additional daily vehicular traffic will impact on Hill Street as a result of the proposed development;
- Traffic volumes at the Crown Street / Endeavour Drive intersection will remain significantly below any warrants for intersection turn treatments as a result of the proposed rezoning;
- The proposed Community Title subdivision will have no impact on traffic safety, level of service or amenity on the Waterfall Way - Crown Street intersection
- All roads within the proposed Community Title subdivision and providing access to the subdivision are capable of (or can be upgraded to) carrying fully loaded firefighting vehicles (up to 23 tonnes);
- Endeavour Drive is served by both Town bus and school bus services with bus stops located on Crown Street adjacent the Endeavour Drive intersection. The majority of the proposed residential lots will be within 750m of the bus stops located on Crown Street providing reasonably good access to public transport services and to the Shared Path link to the Bellingen High School for the proposed land use density.

It is considered that the planning proposal has adequately addressed the issue of the potential traffic and infrastructure impacts of the proposed development and that this matter is able to be more fully addressed at the development application stage of the proposal.

5. Cultural heritage

The planning proposed is supported by an Aboriginal Cultural Heritage Assessment. This assessment was carried out within the proposed development footprint are only.

The assessment concluded the following:

- No artefacts were observed on the fire trail which crossed all ridge crests within the Project Area, which was identified as having the potential to contain Aboriginal sites;
- Having consideration for the low potential of the upper and steep slopes to contain artefacts, these landforms were not included within the archaeological survey. This sampling strategy was agreed to by sites officers from Coffs Harbour and District LALC.
- There is very little topsoil material on the upper slope; it is considered unlikely that the surrounding soils would contain Aboriginal objects, and as such the ridge crest was not identified as a Potential Archaeological Deposit;
- In consideration of the potential of the ridge crest to contain Aboriginal sites, it was noted that the foot slopes of the ridgeline to the north would have provided better access to resources along the river and floodplain, including swamps. The ridge crest which comprises the Project Area was not considered to be a 'pathway' as there was no obvious landscape feature which was identifiable as a destination to the south of Bellingen; and
- No items or relics of European heritage were identified during the assessment.

It is considered that the planning proposal has adequately addressed the potential presence of and/or impact of the proposed development on Aboriginal cultural heritage. The specific recommendations of the report relating to management: cultural heritage induction; find procedure; Aboriginal human remains, and conservation principles can be adequately addressed further at the development application stage of the proposal.

Consultation with the relevant Local Aboriginal Land Council(s) is recommended.

6. Flooding

The drainage line in the north east of the site is mapped on the Bellingen Floodplain Risk Management Study 2002 Map 07 as being affected by the Probable Maximum Flood (PMF)

level (Figure 11). The remainder of the subject site is located outside the Flood Study area however is not regarded as prone to flooding. It is considered that council can adequately address this issue at the development application stage of the proposal.

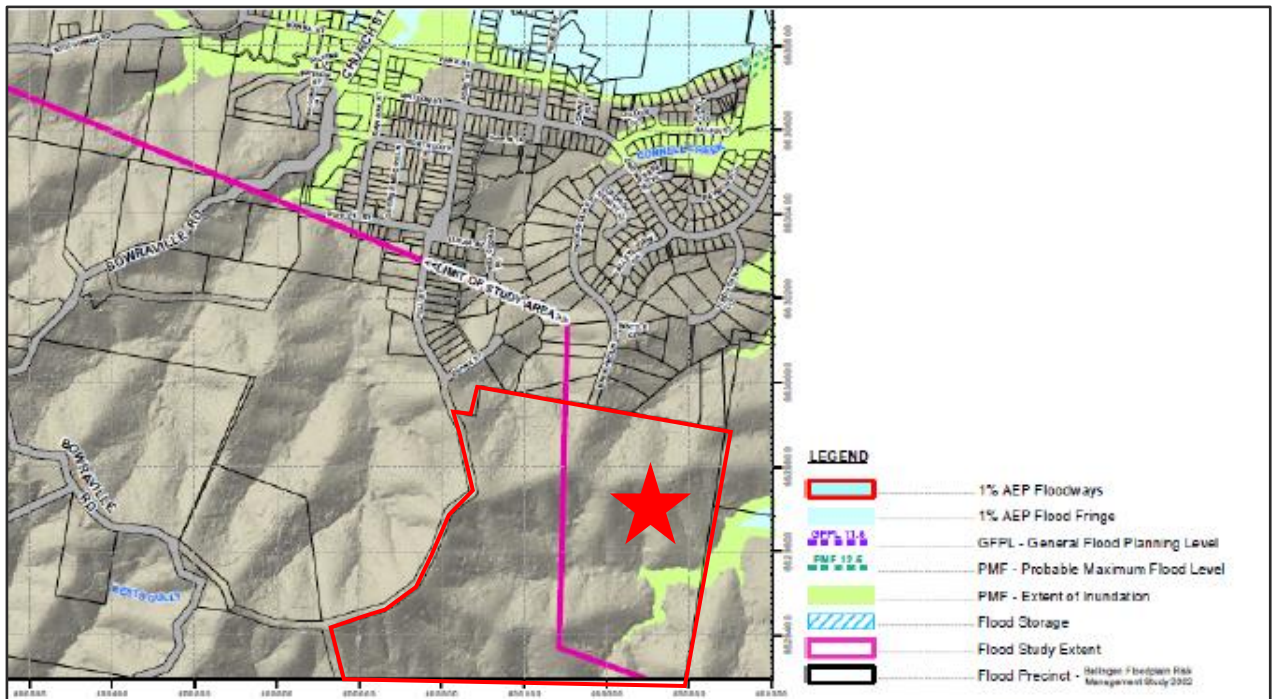


Figure 11 - Flood Mapping of part of subject site (source: Planning Proposal)

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>It is expected that the proposed development will provide a positive contribution to the Bellingen Shire LGA. Benefits will include:</p> <ul style="list-style-type: none"> • Additional housing stock that will be released on a staged basis to cater for demand as it arises; • Housing that will be able to cater for a range of household types; • The potential to address the housing shortage in Bellingen and cater for population growth to 2036; • Flow on community/social benefits to the Bellingen village, particularly the schools and local businesses; • A new residential area that will provide a low impact visual interface between the adjoining village and vegetated lands; and • The enhanced protection of biodiversity values on the undeveloped portion of the site through a Biodiversity Stewardship agreement.

Economic	<p>It is expected that the proposed development will provide a positive economic contribution to the local economy directly as a result of the construction of new dwellings and indirectly through a greater population base to support local business.</p> <p>Council have also noted that the planning proposed, and the proposed subdivision are fully funded by the proponent with developer contributions able to be levied for each new lot created. This will in turn support local infrastructure delivery.</p>
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4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Local	Local infrastructure upgrades, including bushfire safety and access and further place-based investigation will be required to identify site specific requirements at the development application stage.
State	There will be no impact on State or regional infrastructure or the requirement for additional funding.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate given the large-scale area of the proposed rezoning, and forms to the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- NSW Rural Fire Service (NSW RFS)
- Department of Planning, Industry and Environment (Biodiversity and Conservation Division) (BCD)
- Bowraville LALC
- Coffs Harbour and District LALC
- Department of Primary Industry - Agriculture

6 Timeframe

Council proposes a 6 month time frame to complete the LEP.

The Department recommends a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

The Department recommends that Council not be authorised to be the local plan-making authority for this proposal to align with the Minister for Planning and Public Spaces announcement to issue a new section 9.1 Direction which will allow only the Minister to rezone land from a rural zone to an environmental zone.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is not inconsistent with the NCRP and will assist in delivering key Directions such as greater housing supply, increasing housing diversity and choice and more opportunities for affordable housing;
- The proposal implements the actions of the Bellingen Shire Local Housing Strategy 2020-2024 which was conditionally endorsed by the Department on 15 April 2020;
- The proposed development will have positive social and economic impacts both within the Bellingen village and surrounding local government area; and
- The proposed development will ensure the long-term protection of biodiversity values on the undeveloped portion of the site through the application of a Biodiversity Stewardship Agreement.

9 Recommendation

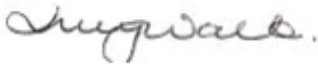
It is recommended the Director, as delegate of the Secretary:

1. **Agree** that any inconsistencies with section 9.1 Directions 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils, 4.3 flood Prone Land, 5.10 Implementation of Regional Plans and 6.3 Site Specific Provisions are minor or justified; and
2. **Note** that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the Director, as delegate of the Minister determine:

1. **note** the planning proposal (**Attachment A**);
2. **determine** that the planning proposal should proceed subject to the following conditions:
 - Consultation is required with the following public authorities:
 - NSW RFS
 - Department of Planning, Industry and Environment (Biodiversity and Conservation Division) (BCD)
 - Bowraville LALC
 - Coffs Harbour and District LALC
 - Department of Primary Industry – Agriculture
 - The planning proposal should be made available for community consultation for a minimum of 28 days.
 - The timeframe for completing the LEP is to be nine months from the date of the Gateway determination.

- Given the nature of the proposal, Council should not be authorised to be the local plan-making authority.
3. **sign** the Gateway determination (**Attachment B**) noting that Bellingen Shire Council is not the local plan making authority and the letter to Council (**Attachment C**).



07/06/2021

(Signature)

(Date)

Lucy Walker
Acting Manager, Local and Regional Planning
Northern Region



9/6/2021

(Signature)

(Date)

Jeremy Gray
Director, Northern Region
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